

The following has been transcribed from a document received under freedom of information from the office of Peter Elzinga the MP for Pembina. The original bears his office stamp. This document was dated June 1978 from the Justice Minister to the Solicitor General.

The Police Function in Canada as a Control and Enforcement Agency

In regards to:

- (1) Amendments to the firearms section of the Criminal Code of Canada 1977, as partially proclaimed 01 Jan 78, balance of which will be proclaimed as of 01 Jan 79. (originally scheduled for proclamation 01 June 78)
- (2) Amendments to the Explosives Act, in regards to Ammunition and Ammunition Components. (by Order in Council as of 01 June 78)

BACKGROUND

As regards to the Police Function in Canada, prior to passage of the fore-going it was the opinion of the administrations:

- (1) That in the face of mass civil disobedience the use of force had limited capabilities....
- (2) That in the face of mass civil disobedience the display of available force would not have credibility.

.....as far as an armed and organized Public was concerned and it was felt that in the interests of the Function that it was desirous to ensure that the Public be discreetly but effectively disarmed over a period of the forthcoming five years.

The foregoing is not entirely the opinion of the administration of the Function, but is one which has been voiced generally even at the rank and file level..... that being 'that the absence of firearms in the hands of the Public would increase the safety of a Patrolman's work'.

With the passage of Firearms section of the Criminal Code of Canada Amendments, having been predetermined that in regards to the Functions ability as a Control and Enforcement Agency there was:

- (1) A lack of personnel suitably indoctrinated at specific assignment locales and sectors within the proposed Control Structure.
- (2) A requirement for adequate training and indoctrination time.
- (3) A requirement for time to phase in the various levels and sectors of the proposed Control Structure independently of one another in a manner which would not create alarm, nor allow premature rapport.
- (4) A requirement for time to nullify the credibility of alarmists and dissenters.
- (5) The necessity to amend the Explosives Act in conjunction with the amendments to the Firearms Section in an independent manner.

..... it was therefore established that:

- (1) Firstly, those portions of the Amendments to the Firearms Section which dealt with Definitions, Classifications, Re-classifications etc., not requiring a public participation would be proclaimed 01 Jan 78, as they contained no real additions to the Act which might draw strong adverse publicity.
- (2) Secondly, those portions of the amendments dealing with the new Regulatory System involving Public participation requiring the Control System be phased in prior to proclamation, were assigned a tentative proclamation date 01 June 78, later established as 01 Jan 79.

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(3) Thirdly, following 01 Jan 79 implementation of Control Structure within the Police Function on Final Proclamation, All civilian components of the system will be quietly phased out or neutralized.

General Methods to be Employed to Effect Disarmament (01 Jan 78 effective)

(1) PUBLIC AMNESTY under the control of the Police Function on a Nation wide basis, publicized through federal funding. The first of such Amnesties scheduled for 01 Nov 78 through 30 Nov 78, wherein the Public may forfeit to the Police Function any Firearms for disposal by the Crown.

All personnel have been made aware of the foregoing operation.

It will be announced that NO CHARGES WILL BE LAID AGAINST A PERSON WHO FORFEITS A FIREARM, THE POSSESSION OF WHICH EXCEPT FOR THE AMNESTY WOULD CONSTITUTE AN OFFENCE, such as possession of a Prohibited, Unregistered Restricted or altered or defaced serial numbered weapon.

The identification and particulars of all persons forfeiting firearms or dangerous substances are to be obtained, and as much history as possible relevant to the firearm or substance obtained and documented. Records are to be kept.

All forfeited firearms are to be thoroughly scrutinized through laboratory methods and available records to determine if the firearm:

- (i) was used in the commission of a crime.**
- (ii) was obtained through the commission of a crime.**

..... and if it is so determined , and investigation persued to the point of arrest and prosecution if possible.

In the event a criminal firearm is located, all persons connected with it's possession and/or use shall be noted, for the purposes of application for prohibition order(s) and warrant(s) to Enter a Dwelling, Search for and Seize Firearms, in regards to the involved parties.

All Identities and particulars recorded under Amnesty are to be processed through available Intelligence Systems to determine if that person forfeiting the firearm(s):

- (i) has a criminal record**
- (ii) is socially unstable**
- (iii) has any other history or background**

..... which would be cause for application to obtain an Order for Prohibition and Warrant(s) to Enter a Dwelling, Search for and Seize Firearms, and that procedure should be implemented forthwith.

On the strength of Amnesty those persons for whom there would be cause to proceed against had there been no Amnesty, cannot be charged directly. However, there is still cause to obtain an application for an Order of Prohibition, and Warrant(s) to Enter a Dwelling, Search for and Seize Firearms which that person might possess as it was duly demonstrated by the act of forfeiture of a firearm or dangerous substance for which the individual might have been charged in regards to had the Amnesty not been in force, that the individual was careless and irresponsible in having such in possession prior to Amnesty.

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(2) FIREARMS ACQUISITION CERTIFICATE (FAC) (01 Jan 79)

Persons applying for FAC will be scrutinized carefully to determine the presence of:

- (a) A criminal record.
- (b) Any indications of social instability, including a history of Alcoholism, Drug Abuse, poor and or reckless driving record (including Impaired Driving convictions), and any available psychiatric history.
- (c) Outstanding prohibition Orders, Referrals, or record of prior offences relating to:
 - (i) Explosives Act
 - (ii) Wildlife Act in regards to firearms misuse.
 - (iii) any similar Acts of Legislation, Bylaws or Regulatory Controls
- (d) Record of forfeiture under any Amnesty which would indicate the applicant had no prior need for a firearm.
- (e) Any other recorded occurrence which might be used to demonstrate a lack of responsibility on the part of the applicant.

..... any of which constitute grounds for refusal of FAC Application.

Personnel are encouraged to make use of all available Intelligence checks and services, Provincial and Welfare and Medical Records where obtainable, as well as interviews with persons who are familiar with the applicant.

If it is found on completion of foregoing that the applicant is unsuitable in regards to one or more of the criteria, a Refusal of Application should be made.

Immediately upon refusal, application is to be made for an Order of Prohibition and Warrant(s) to Enter a Dwelling, Search for and Seize the refused applicants Firearms. The refused applicant's auto and place of business etc (if applicable) should be searched and any Firearms seized, and the presence of offences noted, if any.

(3) Business Permits

Applicants for business permits under the Amendments to the Firearms section of the Criminal Code should be dealt with as follows.

- (a) Applicants, whether individual, or in the case of a firm the officers and employees of that firm must meet the same criteria as FAC applicants. If the FAC criteria cannot be met on these grounds, the application for a Business Permit should be refused.
- (b) Applicant individuals or firms, meeting all criteria in regards to FAC, should then be investigated to establish if in fact all criteria are met as regards the Amendments to the Firearms Section of the Criminal Code and the Amendments to the Explosives Act in relation to the operation of a Business Premises. If all of the foregoing criteria are not met, the application for a Business Permit should be refused.
- (c) If on completion of all the foregoing an applicant is granted a Business Permit, the applicant, individual or in the case of a firm, the officers and employees, the premises and records will be checked regularly and thoroughly to ensure that all the criteria under which the Permit was originally granted are still met.

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BUSINESS PERMITS, (c) continued.....

..... if in fact one or more of the criteria are not being complied with the Business Permit is to be immediately revoked.

(d) On refusal or revocation in regards to a Business Permit :

- (i) Application should be made immediately for an Order of Prohibition in regards to the business, and the firearms seized, or if not practical due to the size of the business and quantity of firearms involved, the premises sealed until such time as the firearms can be removed.**
- (ii) The individual, or in the case of firm, the officers and employees responsible for the Refusal or Revocation in regards to that Firm, shall be duly noted, and Application made for Orders of Prohibition against the same, and application(s) made for Warrant(s) to Enter a Dwelling(s) Search for and Seize Firearms, are to be made.**
- (iii) In addition any involved person shall have any FAC in effect at the time revoked.**

(4) BONAFIDE SHOOTING CLUBS will be proceeded with in the same manner as 2 & 3. Using the strength of that which is set forth in the Amendments discussed as pertaining to this area.

(5) IN THE PRESENCE OF GENERAL OPERATIONS OF THE POLICE FUNCTION.

Personnel are to be advised that when on regular patrol or in the course of general field operations, whether on an unrelated matter or checking automobiles & and places of business etc., they are to be checked for any offence in regards to the Firearms Section of the Criminal Code and Amendments to the Explosives Act, especially to:

The presence of firearms and or dangerous substances which it is reasonable to assume are "unsafe". This may include displays of firearms in an available manner in a place where conditions, such as a drinking party, indicate that they might be used in an unsafe manner which could cause property damage and/or bodily harm. The forgoing is an example and personnel are invited to use ingenuity in this regard.

Immediately such a condition, the names and particulars of all concerned are to be obtained. All present firearms and/or dangerous substances will be seized, and the names and particulars of those concerned which were obtained are to be documented and application made for the usual Prohibition Orders Warrants in regards to these persons for the purpose of seizing firearms.

If in the event that persons are found to be in possession of FAC, these are to be revoked.

Documentation of the matter should be made in such a manner that if any of those concerned are future applicants for FAC or Business Permits it will be noted that they were involved in an unsafe practice, which could be cause for refusal of FAC's or Business Permits.

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NOTES ON THE FOREGOING

It is imperative that firearms be seized. It is not necessary that any criminal charges be laid in connection with the seizure. In fact the main strength of the various Amendments lies in the fact that there are no charges provided which might result in Criminal conviction.

In general, following a seizure, the grounds on which that seizure was made are easily justified, and following that the burden of proof lies with the person from whom the weapons were seized to in fact convince the Court there will be no future endangerment, before the weapons May be returned. This is at best a difficult undertaking, which in general the Public will not pursue due to inconvenience and lack of funding.

It is there fore safe to assume that in the majority, seizure will not be vigorously contested.

It is the intent of the Police Function NOT TO RETURN ANY FIREARMS WHICH HAVE BEEN SEIZED, and as much pressure and influence will be brought to bear through all available channels to ensure this.

Personnel should be made aware however, not to stretch points beyond their normal elasticity in making seizures which may be ruled unjustified.

It is imperative that all matters which go before the Courts have strength to build Case Law, as the criteria for future Court decisions will depend on these early decisions.

The field forces of the Police Function should be made strongly aware that all of the forgoing will be in the interest of their safety, and it's success will depend to an extent on their active and interested participation.